

### REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

#### Examiner interview

Applicant appreciates the courtesy extended by the examiner during the personal interview conducted on March 4, 2008. During the interview, the recent Office action and the cited reference (Ziarno) were discussed. Applicant's representative pointed out differences between the cited reference and the present invention.

In particular, it was pointed out that Ziarno teaches a system for solicitation of donations, whereas the present invention provides a method that is passive, in that the initiation of telephone contact (such that funds are acquired by a fundraising party) is left up to an individual, as opposed to the initial solicitation made by Ziarno.

One important aspect of this distinction is that Ziarno requires advance knowledge of prospective donors (such as an email address or other contact), whereas no such advance knowledge is needed in the present invention.

#### Rejection of claim 1 under 35 U.S.C. § 112, first paragraph

Claim 1 presently stands rejected as failing to comply with the written description requirement. In particular, the examiner asserts that "the new claim language '... and once said connection is generated, disconnecting said connection' is not supported in the specification. This rejection is respectfully traversed for at least the following reasons.

As an initial observation, Applicant respectfully submits that the premise that disconnecting the connection is not supported in the specification appears to be at odds with the examiner's assertion, at page 4 of the recent Office action under the heading "General Comments," that "it is greatly expected here that the connection will be terminated at some point in time by the caller successfully completing his call, as one skilled in the art would have concluded."

Moreover, disconnection of the established connection is discussed in the specification at least at lines 11-13 of page 8, with reference to figure 2 which indicates disconnection at step 23, and at lines 9-11 of page 9, with reference to figure 3 which indicates disconnection at step 34.

Accordingly, for at least these reasons it is respectfully submitted that the claim language is fully supported by the original specification, and withdrawal of the rejection is requested.

Rejection of claim 1 under 35 U.S.C. § 112, second paragraph

Claim 1 presently stands rejected for missing critical elements or a lack of clarity. In particular, the examiner asserts that the new claim language “. . . and once said connection is generated, disconnecting said connection” is not defined or understood.

As noted above, the specification clearly describes a process of generating and then disconnecting a connection. It is respectfully submitted that these steps are clear and easily understood by persons of ordinary skill in the art. In fact, even the examiner asserts that “it is greatly expected here that the connection will be terminated at some point in time.”

Claim 1 is amended more clearly describe the present invention, by providing that, prior to disconnection, an identity of an originator of the incoming call is obtained (step b, “identifying an originator of the incoming call”).

Support for this amendment is found at least in lines 15-25 of page 2. Further, lines 7-14 of page 9, with reference to Fig. 3, describe storing a call originator's identity at step 33, prior to disconnection.

In view of this amendment, withdrawal of the rejection is requested.

Rejection of claims 1-3 and 18 under 35 U.S.C. § 103(a)

Claims 1-3 and 18 presently stand rejected as being unpatentable over Ziarno (U.S. 2001/0001855). This rejection is respectfully traversed for at least the following reasons.

Ziarno fails to disclose or suggest “generating an operational fixed or wireless telephone or similar telecommunication connection connecting an incoming call from a telecommunication device used by an originator through the services of a selected data processing entity with a specific receiver associated with [a] fund raising party” (claim 1).

Applicant notes that the examiner has acknowledged that “Ziarno does not disclose a system wherein a contributor or donor uses a telephone set, instead of or in addition to a computer, to participate in the fundraising activities” (see page 7 of the Office action).

Further, Ziarno fails to disclose or suggest that “an amount charged to the originator of the incoming call upon disconnecting said connection comprises a part representing the operational costs of said data processing entity and another part representing an action-specific amount to be forwarded by said data processing entity to said fundraising party associated with said specific receiver” (claim 1).

Applicant notes that the examiner has further acknowledged that Ziarno does not disclose “wherein a portion of the price charged to the contributor (call originator) when making a phone call to a third party or call receiver, including a charitable organization, is donated to the third party or receiver upon disconnecting or terminating the phone call” (see page 7 of the Office action).

Moreover, Applicant notes that Ziarno discloses (in one embodiment) “[m]eans responsive to information sent via a transferring means enters a debit representative of *the contribution amount* information to an account of the contributor. Means responsive to information sent via the transferring means enters a credit representative of the *contribution amount* information to an account of a fund-raising organization.” (Ziarno; [0058])(emphasis added). In other words, Ziarno teaches that a contribution amount charged to a donor is the same as the contribution amount to the fund-raising organization. However, Ziarno makes no teaching or suggestion of an additional amount charged to a donor for operational costs of a data processing entity.

Finding that Ziarno fails to disclose or suggest each and every element of the claimed invention, and therefore by itself cannot form a prima facie case of obviousness of

the presently claimed invention, the examiner has turned to “Official Notice” in support of the rejection of claims 1-3 and 18.

The examiner asserts that “it is common practice in the art to use a wired or wireless telephone to participate in a fund-raising activity,” and offers as an example that “a Public Broadcasting Station (PBS), such as a television station, usually conducts an annual fund-raising by soliciting the making of monetary donations from its viewers, who use their telephones to respond by donating a specific monetary value set by the station or a value of their own choosing.” (see page 7 of the Office action).

However, it is respectfully submitted that the example of annual fund-raising by a PBS (often referred to as a “telethon”) does not provide any teaching or suggestion of “generating an operational fixed or wireless telephone or similar telecommunication connection connecting an incoming call from a telecommunication device used by an originator through the services of a *selected data processing entity*” (claim 1; emphasis added), but only provides for placing a telephone call to a telephone operator. No teaching or suggestion of establishing a call *through the services of a selected data processing entity* can be derived from the commonplace example of a telethon.

Moreover, the example of annual fund-raising by a PBS advanced by the examiner does not provide any teaching or suggestion that an amount is charged to the originator of the incoming call *upon disconnecting the connection*, or that this amount comprises a part representing the operational costs of data processing entity and another part representing an action-specific amount to be forwarded *by said data processing entity* to said fundraising party.

According to the present invention, a charge is made to the originator of the call upon disconnection of the call. Applicant respectfully submits that no such teaching or suggestion is provided by the example of a PBS fund-raiser or “telethon.” On the contrary, as noted by Ziarno, “[a]s is well known, fund-raising organizations are typically assisted in the solicitation of contributions through the use of pledges, and the like. A contributor is requested to make a pledge, and *then later* to honor the pledge by payment of the amount pledged. A problem with this type of fund-raising is that *a number of*

*pledges do not get honored.*" (Ziarno; [0002]). Ziarno further notes that "any event, in such situations fund raising organizations lose pledged contributions." *Id.*

Applicant respectfully submits Ziarno's discussion of well known fund-raising organizations well characterizes the familiar PBS fund-raiser, wherein callers simply make a pledge, to be paid later. There is no amount "charged to the originator of the incoming call *upon disconnecting the connection.*" Instead, the donor must take the initiative at a later time to make a payment, such as by mailing a check to the fund-raising organization.

Alternatively, even if a telephone operator takes payment information from a donor during the course of a telephone call, no teaching or suggestion has been provided that any charge will be made upon disconnecting the connection.

Further, the example of a PBS fund-raiser does not provide any teaching or suggestion that any amount is forwarded to the fundraising party *by the data processing entity.* Instead, it is respectfully submitted that in a telethon type of fundraising event payments are typically forwarded by the donor (at the donor's own initiation) directly to the fundraising organization or, alternatively, the donor provides payment information (such as a credit card number) to a human representative of the fundraising organization (a person answering the phone during the telethon) such that the fundraising organization may initiate payment.

It is respectfully submitted that, for at least these reasons, Ziarno cannot be modified according to the examiner's proposed example of annual fund-raising by a PBS to arrive at the presently claimed invention. Further, it is respectfully submitted that, taking heed of Ziarno's assertion that "in such situations fund raising organizations lose pledged contributions," a person of ordinary skill in the art would not turn to such a fund-raising method as proposed by the examiner since this appears to be precisely the type of fund-raising that Ziarno regards as resulting in lost contributions.

The examiner also asserts that "it is common practice in the industry for businesses or retailers (providers), such as Giant Food, to encourage their customers to support their stores by donating a certain percentage of the customers' transaction amount to schools or non-profit organizations previously selected."

Applicant respectfully submits, however, that such a practice cannot be construed as a teaching or suggestion that an amount charged to the originator of an incoming call upon disconnecting the connection comprises a part representing the operational costs of a data processing entity and another part representing an action-specific amount to be forwarded by the data processing entity to a fundraising party.

Moreover, it is respectfully submitted that this “Giant Food” example differs substantially from the present invention. According to the present invention, an individual may choose to make a donation to an origination by simply placing a telephone call to a phone number that the individual knows to be associated with the organization for the purpose of receiving donations. Thus, by the present invention the individual calls a specific telephone number associated with a specific organization, according to the individual’s choosing.

In contrast, according to the “Giant Food” example, customers do not participate in the selection of a receiver of the donation made by Giant Food. Further, the “Giant Food” example does not provide any teaching or suggestion that a customer is charged “a part representing the operational costs of a data processing entity and another part representing an action-specific amount to be forwarded by the data processing entity to a fundraising party,” since the examiner does not indicate that a Giant Food customer would pay anything other than the usual “list price” for any particular purchase.

Instead, such an example simply teaches that a business such as Giant Food may itself choose to make a donation to a charitable cause out of profit derived from their customer’s purchases.

Further, the examiner has not provided any indication of how or when a charitable payment or donation is made according to the Giant Food example. According to the present invention, an “action-specific amount” is forwarded by the data processing entity to the fundraising party. The examiner has not described any “action specific amount” that is both charged to the customer and forwarded to a fundraising party.

It is not known, based on the examiner’s given example, whether any specific amount is tied to a customer’s specific purchase. As noted above, the examiner has not

indicated that a Giant Food customer would pay anything other than the usual “list price” for any particular purchase.

It is respectfully submitted that if a customer pays (is charged) the usual or “list price” for any particular purchase, it cannot be said that the customer pays (is charged) an amount representing the “operational costs” of the purchase (the usual or “list price” for the service). This example is more akin to an arrangement wherein an originator of an incoming call is charged no more than the usual operational costs of the call, while a donation is made out of the operational costs of the call, not out of an additionally paid or “action specific” amount.

Moreover, the “Giant Food” example does not provide any teaching or suggestion that any amount is forwarded to a fundraising party *by the data processing entity* upon completion of a transaction (disconnection of the connection). As noted above, the examiner has not provided any indication of how or when a charitable payment or donation is made according to the Giant Food example.

For at least these reasons, it is respectfully submitted that Ziarno, along with the examiner’s “Official Notice” fails to provide any basis for a prima facie case of obviousness of claim 1. Therefore, it is respectfully submitted that claim 1, and claims 2, 3, and 18 which depend from claim 1, are allowable over the cited references, and withdrawal of the rejection is requested.

Moreover, it is respectfully submitted that the examiner’s “Official Notice” PBS fund-raiser and Giant Food examples fail to disclose or suggest either “generating an operational fixed or wireless telephone or similar telecommunication connection connecting an incoming call from a telecommunication device used by an originator through the services of a selected data processing entity with a specific receiver associated with [a] fund raising party” or “an amount charged to the originator of the incoming call upon disconnecting said connection comprises a part representing the operational costs of said data processing entity and another part representing an action-specific amount to be forwarded by said data processing entity to said fundraising party associated with said specific receiver.”

Accordingly, Applicant respectfully traverses the examiner's reliance on Official Notice for these elements, and requests that documentary evidence be provided for the features of the present invention not found in Ziarno, or the rejection be withdrawn.

Conclusion

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1-3 and 18 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's attorney, the Examiner is invited to contact the undersigned at the numbers shown.

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Respectfully submitted,

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